

## **REMARKS/ARGUMENTS**

Applicants respond herein to the Office Action dated April 27, 2005.

Applicant's attorneys appreciate the Examiner's thorough search and examination of the present patent application.

Claims 1-53 are pending in this application. Claims 41-47 are withdrawn from consideration and are subject to restriction and/or election requirement. Claims 1-40 and 48-53 are rejected.

### **Informalities**

Claims 1-40 and 48-53 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In response, Applicants offer the following explanation of the terms deemed indefinite by the Examiner.

Opportunity - for the purposes of the present application an opportunity is defined as when the viewer of a digital set-top box executes a function on the set-top box, such as, increases or decreases the volume, changes the channel, pauses the display of content in a digital video recorder enabled set top box, turns the set top box on, etc.

Opportunity Matching – finding an appropriate or optimal "opportunity" to present content, such as, an advertisement. For example, an opportunity to present an advertisement arises when a viewer hits the "pause" button of a set-top box's (receiver) remote control.

Content - May be any content broadcast to the set-top box, however, for practical reasons of bandwidth and storage advertisements are discussed.

Content Matching – Selecting one of multiple versions of content streamed or broadcast to the receiver, that best matches the profile of the viewer. The selected version is used to replace generic content. For example, during a broadcast of a show, e.g., "Desperate Housewives", the set-top box may replace an advertisement for a Ford Focus (broadcast as generic content) with an advertisement for a Ford Windstar. Such replacement is determined and performed by the Content Matching process on the set-top box. That

process matches the content characteristics (characterizing a target viewer for the ad) of each version of advertisements received from the broadcaster with viewer characteristics (characterizing the users of the set-top box). In the Focus/Windstar example the users of the set-top box was identifier as having a family with small children.

Potential Content – selection of content broadcast to receivers.

Claims 50-53 were amended to correct the antecedent basis pointed out by the Examiner.

Claim 11 depends from claim 10, which recites encryption and decryption of characteristics. Claim 11, as amended claims the performance of encryption and decryption on any of the facilities recited in claim 9.

With regard to claim 17, switching ON and OFF of the receiver means enabling/disabling displaying of the broadcast programming and advertising content to the viewer. Switching ON and OFF of the receiver, does not disable the receiver's processing functions, it only disables the display to the viewer. After the switch OFF, the receiver can still communicate with the head-end sending and receiving messages. Switch OFF should be distinguished from unplugging the receiver's power cord.

Claim 13 refers to transmitting "all or a portion of algorithms" to the receiver. As the Examiner correctly points out, the algorithms are set of instructions belonging to the matching processes. In accordance with claim 13 these instructions are transmitted to the receiver as part of the various characteristics data transmitted to the receiver. Specifically, as recited in claim 13, the algorithms are transmitted as part of the viewing opportunity or selection of content characteristics. Claim 13 has been amended to clarify that the algorithms belong to the opportunity matching processes and the content matching processes.

Claim 18 has been amended to clarify that it is the advertising slots not channels that are related. Similarly, claim 20 has been amended to recite the "displayed version of content" instead of "exercising the content targeting opportunity", references to time have also been expanded.

Claims 36 and 15 were amended to make them better understood.

### **Claim Rejections under 35 U.S.C. §102**

Claims 50 and 52 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S.

Patent Application Publication No. 2005/0166224 to Ficco ("Ficco").

In accordance with amended independent claim 50, the inventive method is directed to targeting of content presentation to individual users. The targeting is achieved by a broadcaster "receiving from content providers, a plurality of potential versions of content". Then, the broadcaster compiles and sends "to a plurality of receivers operated by the individual users, a plurality of versions of content, content characteristics describing each of the versions of content, display opportunities describing when each of the versions of content is to be presented, and user characteristics describing to which user each of the versions of content is to be presented". The sent version of content having characteristics closest to these on a user's receiver that characterize the specific user, is presented to the user at an appropriate opportunity.

In a nutshell, the present claimed invention allows for a broadcast of numerous content, i.e., advertisements, that may be displayed in the same timeslot. Each advertisement is directed at an audience of a certain demographic that may include age, family status, interests, habits, etc. and is identified as having these characteristics. The advertisements are broadcast and received by a receiver. The receiver contains characteristics of its viewer. A micro decision engine (MDE) process on the receiver matches the viewer and content characteristics to choose the most appropriate content to display to the viewer. The present claimed invention provides the content providers, e.g., advertisers, with the control of what content is seen by unique targeted viewers. Ficco does not teach that.

Instead, Ficco discloses generating an advertisement selection factor used to adapt ads to a particular recipient. The advertisement selection factor is derived from a database of information concerning the recipient and/or from data input by the recipient. The result is a broadcast advertisement specifically targeted for a recipient and thereby likely to have a greater impact on that recipient's buying patterns. Throughout its specification Ficco asserts that recipients select advertisements based on the advertisement selection factor. On page 6, paragraph 87, lines 3- Ficco provides the following example:

"the ad selection factor for a recipient that is a known member of the moral majority would deselect all advertisement segments that contained nudity. Instead, the advertisement selection factor would key advertisements segments stored in the memory device 20 that have religious or other highly moral themes."

However, nowhere in the Ficco application is there an explanation of how the selection is achieved, e.g., how the nudity ads are selected and deselected and, moreover, how the

advertisements with or without nudity are identified and then chosen out of all possible advertisements that are received and stored.

Furthermore, Ficco does not describe targeting advertisements to viewers, which is the object of the claims of the present application. Instead, Ficco describes enabling the viewer to select advertisements based on a general type, e.g., nudity, funny, etc. Nowhere in Ficco, is there a discussion of enabling advertisers to target the viewers by, for example, showing advertisements matched to a particular viewer based on the information collected about that viewer. Therefore, Ficco does not teach, disclose, or suggest, the limitations of independent claim 50 as amended. Claim 52 was amended to include the above-discussed limitations of claim 50.

### **Claim Rejections under 35 U.S.C. §103**

Claims 51 and 53 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of U.S. Patent No. 6,237,786 to Ginter (“Ginter”).

Claims 51 and 53 were amended to include the above-discussed limitation of claim 50. Ficco, Ginter, and their combination do not teach, describe, or suggest “sending to a plurality of receivers operated by the individual users, a plurality of versions of content, content characteristics describing each of the versions of content, display opportunities describing when each of the versions of content is to be presented, and user characteristics describing users to whom each of the versions of content is to be presented”, as recited in claims 50-53.

Claims 1, 3-6, 21-26, 37-38, 48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of Ginter and Lee Hadfield, Dave Hater, Dave Bixler, “Windows NT Server 4 Security Handbook”, 1997, ISBN: 078971213 (“Windows NT”) and further in view of Alfred J. Menezes, Paul C. van Oorschot, Scott A. Vanstone, “Handbook of applied cryptography”, 1997, ISBN: 0849385237 (“Menezes”).

While claims 50-53, discussed above were addressed to the “Content Matching” (see the definition above), independent claims 1, and 48 are also directed to the “Opportunity Matching” (see the definition above). In accordance with claim 1, a receiver is informed of a content targeting opportunity and in response, the receiver is selects and displays a version of content. As in the discussion above, characteristics of a viewer (who is targeted for viewing sent content), a selection of content, and viewing opportunities (indicating when to display) are provided to the

receiver. Claims 1 and 48 further recite “performing an opportunity matching process to determine which accessible and permitted versions of the content best match the viewer, viewing opportunity and selection of content characteristics”. These elements are not taught, described, or suggested in Ficco, Ginter, Windows NT, Menezes, and their combination. Neither does the Examiner point to any reference or refer to any selection of the prior art that teaches or even suggests these elements.

Claims 2, 7-15, 17-20, 39 and 49 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of Ginter, Carter, “Windows NT 4.0 MCSE Study Guide”, 1997 ISBN: 0764530879 (“Windows NT 2”) and Windows NT and Menezes and further in view of U.S. Patent No. 6,678,463 to Pierre (“Pierre”).

Similar to claims 1, 48, and 50-53, the independent claim 49 recites elements that are not found in the presented prior art. In particular, claim 49 recites “receiving and storing characteristics of the viewer, a selection of content, and viewing opportunities” as well as “performing a content matching process to determine which accessible and permitted versions of the content best match the viewer, viewing opportunity and selection of content characteristics”. These elements have been discussed above and are not taught, described, or suggested in Ficco, Ginter, Windows NT 2, Windows NT, Pierre, Menezes, and their combination.

With regard to claim 14 the Examiner improperly takes an Official Notice. While the use of elements listed in claim 14, i.e., a postal code, a telephone number, access permissions, etc., may be known in a different context, use of these elements as part of the viewer characteristics to target a viewer for display of a specific content is not. If, as the Examiner stipulates, such use is obvious, then it should be easy to find in the prior art using the viewer characteristics, including the postal code, etc., for selecting from among alternative content and matching that content to a viewer. Thus, the Examiner is requested to withdraw the Official Notice.

Moreover, Claim 35 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of Ginter, Pierre, Windows NT 2 and Windows NT and Menezes and further in view of U.S. Patent No. 5,036,537 to Jeffers; claim 36 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of Ginter, Windows NT and Menezes, and further in view of U.S. Patent No. 5,771,307 to Lu; claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of Ginter and Windows NT and Menezes and further in view of U.S. Patent Application Publication No. 2002/0184314 to Riise; and claims 28-31 and 34 are

rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco in view of Ginter and Windows NT, Menezes and Riise and further in view of U.S. Patent Application Publication No. 2001/0047419 to Gonno.

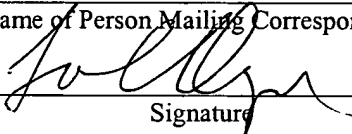
As argued above, Applicants' independent claims 1, 48, 49, and 50-53 are patentably distinct from the prior art references presented by the Examiner and their combination. Claims 2-40 depend directly or indirectly from above discussed independent claim 1 and are, therefore, patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in independent claim 1.

The application is believed to be in condition for allowance. Early and favorable consideration of the present application is earnestly solicited.

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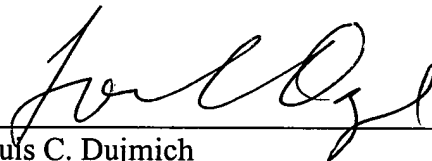
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